

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

KENNETH D. WARD,

Civil No. 08-5367 (JRT/JJK)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

ANDREW SIMCOX,

Respondent.

Kenneth D. Ward, #01429-000, Federal Medical Center, PMB 4000,
Rochester, MN 55903, pro se petitioner.

No appearance on behalf of defendant.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated November 18, 2008.

Based upon the Report and Recommendation of the Magistrate Judge [Docket No. 4], and all of the files, records and proceedings herein, and no objections having been filed to said Report and Recommendation, **IT IS HEREBY ORDERED** that:

1. That petitioner's application for leave to proceed in forma pauperis [Docket No. 2], is **DENIED**; and.
2. This action is **DISMISSED WITHOUT PREJUDICE**.

Dated: December 10, 2008
at Minneapolis, Minnesota

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge